

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

RME Illinois, L.L.C.)	
Petition for Issuance of Certificate of Public)	Docket No. 07-0331
Convenience and Necessity to Provide Onsite)	
Wastewater, Collection and Dispersal Services)	
To a Parcel in Lake Villa, Lake County, Illinois)	
Pursuant to Section 8-406 of the Illinois Public)	
Utilities Act.)	(Cons.)
RME Illinois, L.L.C.)	
Petition for Issuance of Certificate of Public)	Docket No. 07-0332
Convenience and Necessity to Provide Onsite)	
Wastewater, Collection and Dispersal Services)	
To a Parcel in Long Grove, Lake County, Illinois)	
Pursuant to Section 8-406 of the Illinois Public)	
Utilities Act.)	

**REPLY BRIEF ON EXCEPTIONS
OF RME ILLINOIS, LLC**

This is the Reply of RME Illinois, LLC (“RME”) to the Brief on Exceptions (“Exceptions”) filed by the Staff of the Illinois Commerce Commission (“Staff”) on May 12, 2008.

ARGUMENT

Staff suggests replacement language which would modify the Commission’s Analysis and Conclusions (Argument B p. 3). RME agrees with the language proposed by Staff but feels Staff has ignored the fact that the high rates are the results of Staff’s recommended level of investment. The appropriate level of investment by RME should be the proposed purchase price of \$85,300 for Falcon Crest (see Motion dated May 6, 2008, RME Exhibit FC 4.0, Schedule FC 4.02, Line 1), and \$31,600 for Eastgate Estates (see Motion dated May 6, 2008, RME Exhibit EG 4.0, Schedule EG 4.02, Line 1). These levels of investment are in line

with the levels of investment based on the discounted purchase prices of other wastewater systems in Lake County. They are appropriate as RME will be the first entity to devote the facilities to public service. The corresponding monthly service rates based on the purchase price level of investment for Falcon Crest customers should be \$60.66 and for Eastgate Estates Customers should be \$78.58 (Paragraph 6 on page 3 of the Motion dated May 6, 2008). (see accompanying chart)

FALCON CREST		
	Staff	RME
	Proposed	Proposed
Level of Investment	\$465,388*	\$85,300**
Rate of Return on Rate Base	9.70%	9.70%
Monthly Service Rate based on Level of Investment	\$166.56	\$60.66

EASTGATE ESTATES		
	Staff	RME
	Proposed	Proposed
Level of Investment	\$172,508*	\$31,600**
Rate of Return on Rate Base	9.70%	9.70%
Monthly Service Rate based on Level of Investment	\$263.19	\$78.58

* Based on construction cost of Central Plant

** Based on Proposed Purchase Price

NON CONTESTED ISSUES

RME does not object to Staff regarding the following technical modifications, corrections and clarifications to the PO.

- 1) To the caption of the PO (PO, p.1)
- 2) To Section 1 of the PO (PO, pp. 1-2)
- 3) To Paragraph one of Section III, Subsection A: Petitioner Position, of the PO (PO, p. 3)

- 4) To Paragraph two of Section III, Subsection A: Petitioner Position, of the PO (PO, p. 3)
- 5) To Paragraph seven of Section III, Subsection A: Petitioner Position of the PO (PO, pp, 4-5)
- 6) To Paragraph one of Section III, Subsection B: Staff Position of the PO (PO, p. 5)
- 7) To paragraphs three and four of Section III, Subsection B: Staff Position, of the PO (PO, p. 5)
- 8) To paragraphs six and seven of Section III, Subsection B: Staff Position, of the PO (PO, p. 6)
- 9) To Paragraph ten of Section III, Subsection B: Staff Position of the PO (PO, p. 7)
- 10) To paragraphs eleven and twelve of Section III, Subsection B: Staff Position, of the PO (PO, p. 7)
- 11) To Paragraph fifteen of Section III, Subsection B: Staff Position of the PO (PO, p. 8)
- 12) To Paragraph seventeen of Section III, Subsection B: Staff Position of the PO (PO, p. 8)

OBJECTIONS

RME objects to Staff regarding the following technical modifications, corrections additions and clarifications to the PO:

To Paragraphs four and five of Section III, Subsection A: Petitioner Position, of the PO (PO, p. 3) **Proposed Addition:** Petitioner recommended the level of investment to be the proposed purchase price of \$85,300 for Falcon Crest (see Motion dated May 6, 2008, RME Exhibit FC 4.0, Schedule FC 4.02, Line 1), and \$31,600 for Eastgate Estates (see Motion dated May 6, 2008, RME Exhibit EG 4.0, Schedule EG 4.02, Line 1). The Petitioner further recommended that the monthly service for Falcon Crest Customers should be \$60.66 and for Eastgate

Estates Customers should be \$78.58 (Paragraph 6 on page 3 of the Motion dated May 6, 2008).

COMMISSION ANALYSIS AND CONCLUSIONS

RME objects to Staff's recommended corrections to paragraphs two through four of the Commission Analysis and Conclusions to the PO and proposes as follows:

Petitioner has ~~not~~ demonstrated compliance with Section 8-406(b)(3) of the Act. Section 8-406(b)(3) requires financing "without significant adverse financial consequences for the utility ~~or its customers~~" or its customers". (~~emphasis added~~). Staff's recommended monthly rates (~~agreed to by Petitioner~~) for Falcon Crest, \$166.56, and Eastgate Estates, \$263.19, are so high that the Commission finds them to be nothing short of draconian. (Staff Exh. 4 at 3) Staff's recommended rates are precisely the "significant adverse financial consequences" that Section 8-406(b)(3) prohibits in the financing of proposed construction. Petitioner's need for such exorbitantly high rates is a direct result of Staff's recommended level of investment of \$463,388 in Falcon Crest and \$177,508 in Eastgate Estates not its inability to capably finance construction of the needed wastewater systems, as evidenced by the Staff's escrow account and line of credit requirements, as well as the multitude of filings that will subsequently be required by Staff. Utilizing Staff's recommended rate making procedure Any adverse financial consequences resulting from Petitioner's insufficient funding would fall squarely upon the customers of Falcon Crest and Eastgate Estates. The Staff's proposed wastewater rates are clear evidence of this and they are unacceptable to the Commission. RME's proposed wastewater rates of \$60.66 for Falcon Crest and \$78.58 for Eastgate Estates (RME Motion of May 6, 2008 p.3) are acceptable to the Commission. The cost of financing the wastewater system construction would rest on the developer. Petitioner would purchase the system only after inspection and testing of the system were completed and would be the first entity to devote the facilities to public service, therefore, insufficient funding would not fall on the residents of Falcon Crest and Eastgate Estates.

The Commission considers Staff's ~~the~~ proposed rates standing alone to be excessive, but they become magnified when compared to wastewater rates charged by other Commission-regulated utilities at various developments in the same area. Staff's own evidence shows that customers of Aqua, Inc. at Ivanhoe Club in Lake County pay only \$23.97 per month for sewer service. By utilizing Staff's rates ~~customers at Eastgate Estates would pay over ten times that amount each month for the same service.~~ Other customers served by Aqua, Inc. at Hawthorn Woods in Lake County pay \$50.70 per month, while customers at Harbor Ridge served by Utilities, Inc. in Lake County pay \$43.02 per month and customers of Illinois-American Water Co. in the Chicago area pay \$45.52 per month. Staff's proposed rates, and those cited for other developments, cover only wastewater treatment and are exclusive of other utility service. (Staff Exh. 4 at 5-6) By adoption of the ratemaking methodology utilized in the above Lake County rate cases and RME being the first entity to devote these facilities to public service the monthly wastewater service rates would become comparable with the Hawthorn Woods rate case being \$60.66 for Falcon Crest and \$78.58 for Eastgate Estates.

Staff's characterization of the proposed rates as "pricey" and "steep" understates the case. ~~These~~ Staff's rates are completely out of line with other rates charged for the same service in the same area. Moreover, Staff's admonition to disclose to potential home purchasers the proposed wastewater rates is, in our view, an inadequate remedy to say the least. (Staff Exh. 4 at 5-6) We regard ~~these~~ Staff's rates to well exceed the boundaries of affordability and such rates could very likely pose an insurmountable barrier to anyone contemplating the purchase of a home in either the Falcon Crest or Eastgate Estates subdivision. (Staff Exh. 5 at 4) Additionally, the fact that Petitioner is the only source of wastewater service for these developments provides no justification for such incongruous rates. RME's proposed rates of \$60.66 for Falcon Crest and \$78.58 for Eastgate Estates are in line with wastewater rates charged for the same service in the same area. As a result, the Commission finds that Petitioner, utilizing RME's rate structure and proposed

rates, is ~~not~~ in compliance with that portion of Section 8-406(b)(3) of the Act requiring Petitioner to finance construction of the wastewater systems without significant adverse financial consequences for the utility or its customers. On that basis we concluded that Petitioner's request for Certificates of Convenience and Necessity in Dockets 07-0331 and 07-0332 should be ~~denied~~ granted.

FINDINGS AND ORDERINGS PARAGRAPHS

RME objects to Staff regarding the Findings and Orderings Paragraphs of the PO. For the reasons discussed in RME's Brief on Exceptions and the above proposed modifications to the PO., the Petitioner requests the Findings and Orderings paragraphs 6,7, 8 and 9 be modified by the ALJ to reflect the right recommendations of the ALJ as to the rates to be charged and approve RME's Petition of Public Convenience and Necessity.

CONCLUSION

Wherefore, RME requests the Proposed Order be amended by the ALJ to reflect the approval of RME as to its Petitions and to establish the proper rates as proposed by Petitioner.

Respectively Submitted

A handwritten signature in cursive script, appearing to read "Arthur R. Olson", written over a horizontal line.

Arthur R. Olson

Managing Member RME Illinois, LLC